



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/940,805	08/29/2001	Daniel P. Stachowicz	58880/278	4584
23838	7590	03/15/2004	EXAMINER	
KENYON & KENYON 1500 K STREET, N.W., SUITE 700 WASHINGTON, DC 20005			WEINSTEIN, STEVEN L	
			ART UNIT	PAPER NUMBER
			1761	
DATE MAILED: 03/15/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/940,805	STACHOWICZ ET AL.	
	Examiner	Art Unit	
	Steven L. Weinstein	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/2/04
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/29/01 & 12/19/02</u> | 6) <input type="checkbox"/> Other: _____ |

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8 and 11-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Craig (GB 2237224).

For this rejection the phrase “decorative opening “ is being construed as it is described in claim 1; i.e. designed to extrude filling in a first decorative shape”. The specification offers no further clarification of this phrase.

Craig discloses a coupler (22) capable of being inserted into a bag wherein the coupler is a tapered hollow tube having a non-decorative opening and a decorative opening in that the lower opening is capable of extruding out a bead of material that could be used to decorate an item (and as such would be decorative) and wherein the opening is attachable to a tip (23) for extruding a second shape that can be used to form a second decorative shape. Craig also discloses the coupler can have threads for engaging a nut (24) as in claim 2; the coupler tapers downwardly (claim 3); and the coupler has a shoulder to seat with the bag (claim 4). In regard to claim 5, Craig discloses a food decorating assembly comprising a flexible bag (21) with apertures as recited; the decorator coupler (22) as discussed above being insertable in the bag, and being protrudable through the bag opening (fig 11) and a retaining nut (24) as described above and which structurally interacts with the elements as recited in claims 6 and 7. In regard to claim 8, Craig also teaches the bag can be fabric. In regard to method claim

Art Unit: 1761

11, Craig discloses providing filling in the flexible bag (21) having a decorator coupler as discussed above and pushing filling through the coupler onto a food. Note that claim 11 does not exclude another element being attached to the coupler. In regard to claim 12, Craig disclosed attaching a decorative tip (23) to the coupler (22) and ~~disclosed~~ also discloses a retaining nut (claims 13 and 14) as discussed above.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Craig (GB. '224) in view of Ooms (EP 757006).

Claims 9 and 10 differ from Craig in the recitations that the bag and coupler are "preassembled" and "pre-filled" with filling. It is not clear what preassembled and pre-filled mean in article claims; assembled and filled before what-before applying the material? In any case, Ooms discloses that a coupler and filling can be provided sealed in the bag and to modify Craig and provide a sealed dispersing bag containing both the coupler and filling for its art recognized and applicants intended function would therefore have been obvious.

Claim 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Craig (GB 2237224) in view of Ooms (EP 757006), Berrod (FR. 598674), Parrish (3, 847, 523) and Wechsler (2,320,496), further in view of Janik (EP 340,132), Shannon (6153238),

Art Unit: 1761

De Lorimere (4,844,917), Moore (2,419,654), and Knight et al (6,179,165), further in view of applicants admission of the prior art.

In regard to claims 1, 5, and 11, Craig can be relied on as above to disclose a threaded coupler and the combination of a bag, a threaded coupler and a retaining nut for attaching a decorative tip to the coupler. Ooms, Berrod, Parrish et al, Moore and Wechsler are further evidence of the conventionality of the combination. If one assumes that Craig does not teach a coupler having a decorative opening as recited (which, as noted above, there is no evidence to the contrary), since it is known in the art to provide a nozzle within the bag that makes a decorative extrusion as evidenced by Janik and Shannon, Shannon also teaching the equivalency of nozzles within the bag and attachable to a coupler within the bag, and since Delorimiere discloses a threaded nozzle within the bag and that diverse nozzle tips might be applied (col. 4, Para 3) and since Knight et al appears to extrude material through a nozzle/coupler with/without an additional element (Fig 1 and fig 3), to provide Craig, as further evidence by the secondary art, with a coupler that also provides a decorative shaped product would have been obvious in view of the art taken as a whole. The references can be applied for the same reasons given above. That is, the art taken as a whole teaches it would have been obvious to provide a coupler, a coupler in combination with a bag and nut as recited, and a method of using the combination as recited, since the art taken as a whole teaches it would have been obvious to provide the coupler that would be capable of providing a decorative shape. Note, too, if it was known to employ a nozzle for immediate use and it was known to provide a coupler to provide easy attachment of

Art Unit: 1761

nozzles, it would have been obvious to combine the immediate but limited use of an attached nozzle with the threaded capability of additional nozzles which is shown by the art taken as whole. That is, the art taken as a whole teaches the generic teaching of providing a threaded element capable of receiving nozzles to prevent emptying the bag but also teaches nozzles within the bag.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Weinstein whose telephone number is (571) 272-1410. The examiner can normally be reached on Monday-Friday 7:00am to 3:30 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1201.

S. Weinstein/af

March 5, 2004

2/23 → 3/2


STEVE WEINSTEIN
PRIMARY EXAMINER 1761
Rem 8A69 3/9/04